

Advisory Opinion

IECDB AO 2006-10

*updated by 2016-05

July 12, 2006

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the issue of the placement of a “paid for by” attribution on emails. The Board’s jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

In IECDB Advisory Opinion 2000-25, the Board interpreted the campaign laws as requiring the placement of a “paid for by” attribution on campaign Web sites and emails. Subsequent to that opinion, the Iowa General Assembly enacted Iowa Code section 68A.405(1)“a”(3) that includes “internet web site” under the definition of “published material” that requires an attribution.¹ The statute also requires the attribution to be on “any other form of printed general public political advertising.”

The Board interprets the phrase “any other form of printed general public political advertising” as applying to certain email messages. When an email message without an attribution is brought to the attention of the Board, the Board will consider taking an enforcement action based on the following factors:

1. The email message must advocate the nomination, election, or defeat of a candidate for state or local office in Iowa or the passage or defeat of a ballot issue in Iowa to be subject to the requirement. This includes email messages concerning campaign fundraising.
2. The number of persons the email message was sent to and the perceived intent behind sending the email.²
3. The situational setting from which the email message was sent.³
4. An email message distributed by a campaign committee or campaign organization.⁴

5. The email message does not fall under the press exception in Iowa Code section 68A.405(2)“a” or under the exception for an individual, acting independently, who spends \$100 or less to advocate for or against a ballot issue.

The attribution should include the relevant information as required by Iowa Code section 68A.405 and Board rule 351—3.38. The person paying for the email message is the person who pays for the email service. In situations where the email service is free, the person paying for the message is the person who pays for the Internet service or connection.⁵

In an enforcement action involving a blog, the Board determined that the requirement to place an attribution on a blog that contained express advocacy would only apply if the blog was owned or controlled by a candidate, campaign committee, or campaign organization. In addition, campaign advertisements on any blog would need an attribution. Otherwise, blogs will be given the press exemption.

In closing, the Board modifies IECDB Advisory Opinion 2000-25 as set out herein.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹The General Assembly passed legislation renumbering the campaign laws from Chapter 56 to Chapter 68A. Several other amendments to the campaign laws and Board rules have been enacted since IECDB Advisory Opinion 2000-25 was issued.

² For example: personal correspondence would not be subject to the attribution requirement nor would correspondence among the officers of a campaign committee.

³For example: an email message sent to persons in a workplace is more likely to require the placement of an attribution than a message sent to a personal contact list. An advocacy message sent to a purchased list of email addresses would clearly require the placement of an attribution.

⁴"Campaign organization" meaning an organization that is set up for the purpose of campaigning but has not crossed the \$750 financial registration and filing threshold in Iowa Code section 68A.102(5) or 68A.102(18).

⁵Persons sending an email message that would require an attribution should keep in mind that Iowa campaign laws prohibit the resources of certain entities from being used for campaign purposes and in such situations the entity would need to be reimbursed in some amount for the email message. In these situations, the attribution would include the name of the person who made the reimbursement.